

ENVIRONMENTAL ASSESSMENT AND FINAL FINDING OF  
NO SIGNIFICANT IMPACT  
FOR THE  
PROPOSED RULE  
AMENDING 10 CFR PART 51.22

“Criteria for Categorical Exclusion: Identification of Licensing and Regulatory Actions Eligible for Categorical Exclusion or Otherwise not requiring Environmental Review”

Office of Federal and State Materials and Environmental Management Programs  
U.S. Nuclear Regulatory Commission  
July 2008

I. THE PROPOSED ACTION

The NRC is proposing changes to the list of categorical exclusions in 10 CFR 51.22 to clarify the scope of the existing categories of actions and to add new categories of actions that have been determined by the NRC to have no significant effect on the human environment.

II. THE NEED FOR THE PROPOSED ACTION

Prior to this proposed rule, there has been no comprehensive review and update of the Section 51.22 since its development in 1984. The proposed rulemaking is based, in part, on the September 2003 Council of Environmental Quality's (CEQ) NEPA Task Force Report (Task

Force Report) “Modernizing NEPA Implementation,” <http://www.nepa.gov/ntf/report/pdftoc.html>.

The Task Force Report notes that the development and updating of categorical exclusions occur too infrequently and recommended that Federal agencies examine their categorical exclusion regulations and identify potential revisions that would eliminate unnecessary and

costly environmental assessments (EAs). It also provides recommendations for categorical exclusion development and revision.

The Task Force Report notes that in developing new or broadening existing categorical exclusions, a key issue is how to evaluate whether a proposed categorical exclusion is appropriate to support a determination that a category of actions do not individually or cumulatively have a significant effect on the human environment. The report recommends the use of information from past actions to establish the basis for the no significant effect determination. This report further advises Federal agencies to evaluate past actions that occurred during a particular period to determine how often the NEPA analyses resulted in findings of no significant impacts (FONSI) for the category of actions being considered. The Task Force Report indicates that an adequate basis for developing new or broadening existing categorical exclusions exists if all the evaluated past actions resulted in FONSI. It also provides that criteria for identifying new categorical exclusions should include: (1) repetitive actions that do not individually or cumulatively have significant effects on the human environment; (2) actions that generally require limited environmental review; and (3) actions that are noncontroversial in nature.

The proposed rulemaking is also based upon a review of NRC regulatory actions. As noted, the Task Force Report recommends that agencies evaluate past EA/FONSI for particular categories of actions to develop new or broaden existing categorical exclusions. To comply with this recommendation, the NRC conducted a file search for EA/FONSI period from 1987 to 2007. The search revealed that more than 1,500 actions resulted in EA/FONSI. The NRC conducted an in-depth review of the EA/FONSI issued in the last 5 years. That review identified several recurring categories of regulatory actions that resulted in FONSI that are not addressed in the categorical exclusions in 10 CFR 51.22, and have no significant effect on the

human environment, either individually or cumulatively. These categories of regulatory actions were considered in the proposed revisions.

The proposed revisions of the categorical exclusion regulations would minimize inefficiencies and inconsistencies in the implementation of NRC's regulatory program. The amendment would eliminate the need to prepare unnecessary and costly EAs for NRC regulatory actions that have no significant effect on the human environment. The proposed revisions would also support the NRC's goal of ensuring that its actions are effective, efficient, realistic, and timely.

### III. ENVIRONMENTAL IMPACTS OF PROPOSED ACTION

The proposed rulemaking amendments will not have a significant effect on the human environment. As noted above, the proposed amendments are based upon EAs for NRC actions that are minor, administrative, or procedural in nature (e.g., no increases in releases/uses of radioactive or chemical materials), and for which the NRC has consistently determined a FONSI. As such, the NRC concludes that:

- (1) The proposed action will not significantly increase the probability or consequences of accidents.
- (2) The proposed action will not change the types of effluents that may be released off site.
- (3) The proposed action will not increase individual, or cumulative public or occupational radiation exposure.
- (4) The proposed action will have no construction impact.
- (5) The proposed action does not have a potential to affect any historic sites.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

#### IV. ALTERNATIVES TO THE PROPOSED ACTION

The alternative to this proposed action is to take no action. This would leave the current regulations in place. This alternative was rejected because it would require the continued expenditure of NRC's resources on costly and unnecessary EAs that delay regulatory actions. This option would not support NRC's strategic goal of ensuring that its actions are effective, efficient, realistic, and timely.

#### V. ALTERNATIVE USE OF RESOURCES

There are no irreversible commitments of resources determined in this assessment.

#### VI. AGENCIES AND PERSONS CONTACTED

No agencies or persons outside the NRC were contacted in connection with the preparation of this draft environmental assessment.

#### VII. FINDING OF NO SIGNIFICANT IMPACT

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that the proposed amendments are not a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement will not be prepared. The proposed amendments would add categorical exclusions to obviate the need to prepare environmental assessments for NRC actions that are minor, administrative, or procedural in nature (e.g., no increases in releases/uses of radioactive or chemical materials), and for which the NRC has consistently determined FONSI.

As such, the proposed amendments would have no significant impact on the environment.